



August 26, 2010

The Honorable Edward J. Markey  
The Honorable Joe Barton  
United States House of Representatives  
2108 Rayburn House Building  
Washington, DC 20515

Dear Representatives Markey and Barton:

This letter provides MySpace, Inc.'s response to your letter dated August 5, 2010 inquiring about MySpace's collection and use of consumer information. We appreciate your efforts on behalf of the House Bi-Partisan Privacy Caucus to address these important issues. MySpace shares your desire that internet users are well informed about websites' data collection and use practices. Should you have any further questions after you have reviewed our responses, please do not hesitate to contact us.

**1. What specific information about consumers does your company collect, either through your own website or through business relationships with third parties?**

**Response:** MySpace is a social networking website designed to allow its users to discover content, express themselves, make friends, and share information with others online, consistent with each user's personal preferences (the "MySpace Services"). MySpace users create online "profiles" where they express their interests, find and communicate with old and new friends, and collect and share interesting content like photos, videos and music. Accordingly, most of the information that MySpace collects about its users through the MySpace website is provided voluntarily by those users when they create or update their profile. In order to create a MySpace profile, a user must provide a name, gender, email address, a password, and date of birth.<sup>1</sup> MySpace also gives users the option to populate both free-form sections on the profile, such as "About Me" and "Interests," and an array of choices via drop-down menus from which users can provide additional details about themselves such as education, hometown, and occupation.

MySpace also collects non-personally identifiable data about how users interact with the site, including which pages are viewed and some of the actions users engage in (such as watching a video, playing music, the fact of sending a message, or playing a game). MySpace also contracts with third-party data analytics companies (e.g., Google Analytics) to assist in collecting some of this information in aggregated, non-personally identifiable form.

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<sup>1</sup> MySpace requires that users enter a date of birth because it employs certain age-based privacy settings that restrict visibility of profiles and contact between adult users and users under 18.

2. **If you have business relationships with third parties, please list the names of those third parties, including analytics firms.**

**Response:** MySpace maintains relationships with a variety of third parties who help it to provide and enrich its social networking services. We have set out below categories of third-party business relationships that relate to MySpace's provision of its online services, and provided examples of entities in each category with whom MySpace has an ongoing relationship:

- Advertising networks (e.g., Google)
- Advertising companies for specific campaigns (e.g., Eye Wonder, Social Media)
- Partners in site product or feature development (e.g., Redux, Wotnews Pty Ltd.)
- Anti-Spam providers (e.g., Cloudmark)
- Data analytics firms (e.g., Google Analytics, Visible Measures, Auditudo)

3. **How does your company collect consumer information (e.g., direct consumer input, cookies, beacons, Flash cookies, other surveillance technologies)?**

**Response:** MySpace collects user information in a number of ways. As outlined in the Response to Question 1, MySpace's primary method of collection is via direct consumer input in the form of users' voluntary submissions of their interests and demographic information. MySpace also uses cookies and other technologies such as beacons to collect and store non-personally identifiable information about users to both ensure the site functions effectively (in the form of user preferences and the ability to load content) and to provide a richer user experience (in the form of relevant advertisements, content, and suggestions).

4. **How does your company use the information it collects, both directly or through third parties, if applicable?**

**Response:** MySpace uses the information it collects from users in a number of ways, including: to display that information on user profiles consistent with their privacy settings (e.g., to authenticate users so that they can view their own profile information); to store user preferences (e.g., the preferred language they would like to use to read MySpace content); to measure user engagement (e.g., how often users visit certain MySpace pages); to serve relevant advertisements and content to our users (e.g., serve an ad about a specific band they have listed as a favorite); and for security reasons (e.g., anti-spam measures). In some cases, MySpace may share the information it collects with third-party service providers for a specific and limited contractual purpose, such as the development and maintenance of a particular product or feature of the site.

MySpace also provides the non-personally identifiable demographic and interest information submitted by users to two advertising networks, Fox Audience Network ("FAN," a MySpace affiliate) and Google, and to certain advertising providers running specific ad campaigns on MySpace. These third parties use this information to help them deliver more customized, relevant advertisements to MySpace users on the MySpace website. It has always been the case in the off-line world that advertisers want to display their ads in places where it is most likely that those consumers who may be interested in their products or services will see them. The same is true in the online world. In order to achieve this objective, online advertisers rely on

cookies and other tracking devices as anonymous identifiers to ensure that their ad is served to the intended user's computer, just as catalogues or coupons are delivered to distinct residential mailboxes (via an address) in the physical world.

**5. Does your posted privacy policy fully explain these data collection and use practices?**

**Response:** Yes. MySpace's Privacy Policy explains to users how MySpace collects and uses both personally identifiable information and non-personally identifiable information. The MySpace Privacy Policy can be found here: <http://www.myspace.com/index.cfm?fuseaction=misc.privacy>.

For example, the Privacy Policy describes the types of information users must submit to MySpace to create an account, as well as the information users may voluntarily submit. In addition to the policy, MySpace also provides users with a brief overview of the privacy settings on MySpace, including identifying the categories of information collected by MySpace. See <http://www.myspace.com/pages/PrivacySettings>.

The policy also explains MySpace's use of cookies and similar technologies as well as the use of cookies by third-party advertisers, and explains how these types of technologies are used to customize the content and advertising displayed to users. The policy notes specifically that MySpace uses cookies in the following ways: to identify a user's Internet browser; store user preferences; determine whether a user has installed the enabling software needed to access certain material on the MySpace Services; authenticate user sessions; and provide the MySpace Services. The policy also informs users that they may set their computer settings to warn them each time a cookie is set, or block all cookies on their computer, but that these actions may interfere with some of the MySpace Services' functionality.

The policy also describes the way MySpace collects other non-personally identifiable information such as IP address, aggregate user data, and browser type in order to manage and improve the MySpace Services, track usage, and for security purposes.

MySpace's Privacy Policy further informs users that MySpace may share user information with the third parties who help MySpace provide its services, such as message board administration, statistical analyses, data processing, and administration, judging and prize fulfillment aspects of contests or promotions. The policy also gives users information on how to review the information MySpace has collected about them, change their privacy settings, and contact MySpace to express any concerns about their privacy.

**6. Does your posted privacy policy identify for consumers all affiliated and unaffiliated entities with which you share or provide access to consumer data whether through direct disclosure, cookies or some other means?**

**Response:** The MySpace Privacy Policy identifies the types of entities with which it shares information (service providers and advertisers), but does not contain a list of specific affiliates and third parties with whom it shares information. The Policy also communicates to users that MySpace is a part of the News Corporation News America Group, and thus is affiliated with all entities in the News America Group. The NewsCorp website identifies the entities in the News Corporation family.

- 7. Does your company sell or otherwise monetize the information it collects?**
- a. If yes, to which companies does it sell or otherwise disclose the personal information it collects?**
  - b. What were the revenues associated with this sale or monetization of the last 12 months, or the most recent year for which your firm has such data?**

**Response:** MySpace does not sell its user data. However, because MySpace is a free service for users, MySpace's revenue – like most internet portals or social networking sites – is largely derived from internet advertising on its website. Accordingly, as described above and in the MySpace Privacy Policy, the non-personally identifiable demographic and interest information that MySpace users express about themselves on the website is used to provide more customized, relevant advertisements to those users. The revenues associated with the sale of advertising on MySpace is not publicly available information, but is accounted for in News Corporation's quarterly earnings report listed in the "other" category.

- 8. Is your company aware of all third-party tracking devices that may be installed on a user's computer when the user visits your site?**
- a. If yes, what evaluations does your company perform to discover such devices? If no, why not?**
  - b. What actions does your company take upon discovery of a previously unknown third party tracking device?**

**Response:** No. As explained below, MySpace is not in a position to have knowledge of all third-party tracking devices that may be installed on a user's computer when the user visits our site.

MySpace controls all cookies and other tracking devices that are initiated from the MySpace.com domain (i.e., the MySpace Services). As outlined in response to previous questions, the tracking devices are placed for the purpose of providing MySpace features and services. MySpace regularly conducts security reviews to ensure that these cookies or other tracking devices cannot be created or accessed by unauthorized third parties. These cookies or other tracking devices also include those associated with third party service providers with whom MySpace contracts, such as Google Analytics.

Additionally, as noted previously herein and explained in MySpace's Privacy Policy, third parties including advertisers and application developers that display content through the MySpace Services may establish their own independent cookie or tracking device. These cookies are set from the third parties' own domains on which the advertising or application content resides, and have no access via the tracking device to any personally identifiable information of MySpace users.

Finally, MySpace allows users to insert or embed content on their profiles from other websites (such as music or videos hosted on other websites), which can result in those websites establishing their own independent cookie or tracking devices on a user's computer. Again, those cookies or tracking devices do not allow access to any personally identifiable information collected by MySpace. Because third party cookies or tracking devices do not allow access to personally identifiable information of MySpace users, MySpace does not conduct regular evaluations to determine their presence.

- 9. Does your company serve different pages, content or advertisements to visitors, based on information derived from tracking devices? If yes, please explain.**

**Response:** Yes. As outlined above, MySpace uses the information stored in user cookies to determine the content and advertisements that users see when they visit the MySpace site. For example, a MySpace cookie enables a returning MySpace user to see their own user home page displaying their own profile content at log-in. Additionally, the affiliated and third-party advertising networks who serve ads on MySpace may use their own cookies to display relevant advertisements to that user and to ensure a particular user does not see the same advertisement multiple times.

- 10. Does your company target individuals based on their health or financial status?**

**Response:** MySpace does not target based on user health or financial status. Among the many "details" a MySpace user has the option to include in their profile information is a range of income level, which has long been one of the most common demographic criteria used in both offline and online marketing. If a user opts to select an income range (MySpace makes no attempt to verify the information), that information is included among the user's non-personally identifiable demographic and interest information that may be used for advertising.

- 11. Are there any user search or use habits that your company will not use for targeting purposes or tracking? If yes, what are they?**

**Response:** Customized advertisements and content on MySpace generally is delivered based on the demographic or interest segments into which a user is classified based on their non-personally identifiable, self-expressed profile data. MySpace does not, for example, use the content of user private mail messages or instant messaging sessions for targeting purposes.

- 12. Has your company conducted a legal analysis of the applicability of communications and consumer privacy laws to the targeting and/or tracking practices utilized by your firm? If yes, please explain what this analysis concluded.**

**Response:** MySpace's legal analysis of consumer privacy laws is continuous. MySpace employs experienced in-house attorneys and retains outside counsel to advise the company on privacy issues. These attorneys provide ongoing advice and counsel on the evolving legal treatment of privacy issues, and participate in Federal Trade Commission round tables and similar government and industry forums in which these issues are discussed.<sup>2</sup>

- 13. If your company tracks or targets visitors, how does it notify visitors to your company's site of this practice? If it does not provide notification, why not?**

**Response:** As described in detail previously herein, the MySpace Privacy Policy informs visitors that they may receive customized advertising via the use of cookies or other technologies.

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<sup>2</sup> This question appears to call at least in part for information that is protected by the attorney-client privilege. MySpace is not disclosing the communications between it and its internal or outside legal counsel.

**14. If a user does not want to be tracked or targeted upon visiting your site, how would the user effectuate this preference?**


**Response:** As outlined in the MySpace Privacy Policy, users can configure their browsers to warn them each time a cookie is being sent, to block third party cookies or to block all cookies (though the functionality of MySpace.com may be significantly reduced without the use of cookies). Users can also disable cookies, periodically delete them in their browser or set the browser to delete them upon close of the browser.

Additionally, the MySpace Privacy Policy provides a link through which users can opt-out of MySpace targeting that may use their free-form (non-structured) profile information to customize ads, as well as a link through which users can opt out of targeted advertising by third-party advertising networks. The third party advertising opt-out is maintained by the Network Advertising Initiative ("NAI") page, on which users are provided tools to identify all NAI advertisers that have placed a cookie on the user's computer, and to opt-out of all members' information collection and targeted advertising programs.

**15. Please explain whether your company provides the ability of consumers to "opt-in" to the use of these practices or "opt-out," including whether they have an option to prevent both collection and use of their data. If your company provides the opportunity to opt out, how many visitors have chosen this option according to your company's most recent data?**

**Response:** As explained previously herein, most of the information MySpace collects is submitted voluntarily by users as part of creating their profile. MySpace explains in its Privacy Policy that the non-identifiable aspects of this information may be used to serve more relevant, targeted advertisements and content. However, the policy also explains that users can delete cookies relied on to serve such advertisements and offers the ability to opt out of both MySpace's use of user free-form (non-structured) information for ad targeting purposes and third-party targeted advertising practices from links in that policy. MySpace is unable to determine when users delete their browser cookies because that is controlled solely by the end user. According to MySpace's most recent data, approximately 16,000 users have chosen to opt out of MySpace's use of their information for targeting, and approximately 21,000 users have clicked the link in our Privacy Policy to the NAI's third-party advertising opt-out since 2009, the earliest date from which MySpace has access to this information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Jones', with a stylized, cursive script.

Michael Jones  
President, MySpace, Inc.